LAW LIBRARY JOURNAL

Vol. VII. October, 1914.

Published in conjunction with the Index to Legal Periodicals, Vol. VII, No. 3, October, 1914.

AMERICAN ASSOCIATION OF LAW LIBRARIES

MINUTES OF THE ANNUAL MEETING, HELD IN THE RED PARLOR OF THE NEW EBBITT HOUSE, WASHINGTON, D. C., MAY 25-26, 1914.

Second Session, May 25, 1914 at 3 P. M.

ROUND TABLE: THE NEEDS OF SMALL LIBRARIES.

The program was arranged and conducted by Miss Claribel H. Smith of the Hampden County Law Library, Springfield, Mass. The first subject was *Law Library Books.*

a. What necessary books must the small law library own?
b. What books should it have, if funds hold out?

Dr. G. E. Wire, Worcester, Mass., and
Mr. A. J. Small, Des Moines, Iowa.

Dr. Wire: A small law library is rather an indefinite term, as law libraries being special collections are most of them small in number of volumes when compared to our circulating, reference, college, university and society libraries, which easily run 100,000 volumes or over for scores on scores of them. However, to make a start we may call 5,000 volumes a small law library for purposes of consideration of this paper.

This library will possess, of course, reports of its own state, session laws of its own state, and more or less volumes of digests of law and reports of its own state. Also it should have text books of its own state. In addition it may possess United States Supreme Court reports and digests, some late compilation of United States Law, reports of contiguous states (if not too numerous), and in case of New York and Pennsylvania, the present system of their courts of last resort. At least one law encyclopaedia, a set of the Reporter covering that state or territory, a set of Federal Reporter, and from 300 to 500 volumes of text books and cases. In buying these, special attention should be paid to the questions of the day as far as possible, for instance, this year they are Income Tax and Employers' Liability.

Mr. Small: We all agree that a library limited as to size and funds must curtail the number and the kind of books placed on its shelves. Dr. Wire did not specify the variety or kind of books needed, and it occurs to me that we might like to get an idea as to what text and reference books a small law library should have. I do not see how a law library can get along without a certain number of reference books in addition to those of law. We necessarily have to keep in touch with the latest events of the day. We must have dictionaries, a cyclopaedia, and possibly a medical dictionary, along with Words and Phrases, which is used by lawyers generally, whether in large or small libraries. Of the official reports, there should be those of its own state, and possibly those of a few other states,

varying according to the size and importance of the library, and at least a few sets of the Reporter system. Statute law of the several states should be obtained to the extent of local means. Shepard's Citations are almost indispensable, but, like the other purchases, must be curtailed according to means at disposal. A small law library should also have a certain number of periodicals. It is hardly possible to conceive of a library not having a few American periodicals, and two or three of the English, and a few of the most important English reports. An atlas, of course, would be essential, and possibly an almanac or two, such as the World and the Tribune. Then there are Hubbell's or Martindale's Legal Directories. These contain forms and a synopsis of laws, which give the librarians and users of the library a good idea of the general laws of the various states from a commercial point of view. Leading text books upon the various topics are absolutely necessary and the local texts within the state are essential. A few books on constitutional law are desirable. In our state we have a great deal of trouble with constitutional questions, and I presume all the other states have the same experience. In purchasing books, a small library might do well to consider the purchase of the thin paper editions, with a view to economizing in space. A set of an encyclopaedia in this form, for instance, will take up only about half the space of the thick paper. As to the advisability of this, however, I cannot say as I have had no experience with thin paper, and would like to have it discussed. If anyone here has tried it, I should like to hear the results.

Miss Fleming: Will someone give a short list of Federal documents which small law libraries should have?

Mr. Banks: I would mention the Revised Statutes of the United States, with two supplements; the United States Statutes at Large; the Public Land decisions; the Court of Claims Reports; the Opinions of the Attorneys General, which contain a great many legal decisions; the reports of decisions of the Interstate Commerce Commission; the United States Court of Customs Appeals Reports, of which four volumes are published; the decisions of the Commerce Court (which court recently went out of existence) of which only one volume is printed; the Federal anti-trust decisions. I shall be very glad to furnish to anyone desiring it a complete list, so far as I know, of all legal Government publications.

Mr. Small: Would that list contain the laws and documents?

Mr. Banks: Just the legal end of the Government publications.

Mr. Hewitt: I would like to say that, respecting Pennsylvania, I think I would add, even for a small law library, one more class of Reports. The lawyers find it necessary at times to get a working idea of the divorce law of the different states. Most of the divorce cases do not get into the highest court of Pennsylvania, because the appeal is from the Trial to the Superior, and most of them stop with the Superior Court. Because the Superior Court is a very excellent Court, I would suggest that Reports of that Court be added to the list.

As to the thin paper edition, I would like to hear views. We tried it, and it tries us.

We have the Britannica, having been forced to use it because of limited space, but we find that the pages get folded and that the nervous people who come to our library get exceedingly irritated with the thin paper. I have seen one or two

kinds of paper almost as thin, and yet not so liable to fold or become creased and try our patience. I have, in a few law books, seen a somewhat better kind. I do not think the Britannica thin paper is a success.

Mrs. Klingelsmith: Mr. Hewitt was forced to use it. We are all going to be forced at some time to buy thin paper because of lack of space. We have all had an opportunity to know about the Encyclopaedia Britannica. We have never tried that, but we have a book which we use constantly and which is most satisfactory, namely, the single-volume edition of Tiffany on Real Property. We have used it all winter and it is in good condition yet. Thin paper is not an experiment in a way if we are given good paper, because we all know that foreign law books (particularly German books) are always printed on a paper which, while it is not what we call thin paper, takes up just about half the space of the paper we now use. Whether the paper which the publishers are giving us now is going to be satisfactory I do not know, but I am going to guarantee that you will have to use thin paper, and you are going to find a thin paper that will be satisfactory, because it is a thing we must have. There is no use in putting a six-volume work on our shelves. We must have something better, and when we are getting a six or a four volume work instead of a two-volume, it is time for us to say that we will not take the four volume or six volume book. I am an advocate of thin paper, and of a book that will not cost very much to put on the shelves.

Mr. Cheney: There is one thin paper volume which I think might be in a small law library if conditions are the same as in New York State. Where oaths are administered, it would be well to have a Bible. Mrs. Cobb suggests that the slip laws of the United States should be added to a law library.

Mr. Crofts: May I suggest as an addition to the above list that, next to a set of New York Court of Appeals Reports, the most valuable thing a New York lawyer could get hold of would be a separate citation book. Take a case, for instance, in 110 New York—a lawyer's first anxiety is to find out what has become of that case between 110 and 210. I think the extra cost of the citation book to all the states is about the best investment that can be made.

Library of Congress Cards.

Is it expedient for the small law library to use the Library of Congress cards?

Miss G. E. Woodard, Ann Arbor, Mich., and
Mr. E. H. Redstone, Boston, Mass.

Miss Woodard: The question "Shall Library of Congress cards be used in a small law library" has been asked so often that a brief consideration of the matter at this time would seem to be in place. All that will be said has been taken practically verbatim from the third edition of "The Handbook of Card Distribution, with references to Bulletins 1-23," which was issued in March, 1914, and may be had for 15 cents from the Superintendent of Documents, Government Printing Office, Washington, D. C. From this pamphlet of 94 pages, one may obtain information regarding the methods of ordering and using L. C. cards. A smaller pamphlet of 24 pages entitled "L. C. Printed cards—how to order and use them," Ed. 2 by C. H. Hastings, may be had free upon application.

The work of issuing printed catalog cards "is in part, at least, the outcome of the efforts and experiments of the A. L. A. cooperative cataloging which began with the organization of the Association in 1876. The printing and storing of cards (by L. C.) was begun in 1898, and in 1901, with the indorsement of the A. L. A. collectively and with the cordial support of its members individually, the work of distribution was begun." (Handbook p. 85.)

The printed cards in stock in Library of Congress, March, 1914, cover "books received by copyright since August, 1898, books received by purchase or gift since January, 1901, books recataloged since January, 1901 . . . and current accessions, some books recataloged in certain other libraries in the District of Columbia and some of the current accessions and a few books recataloged in certain American libraries outside of the District of Columbia." (Handbook p. 5.) "About 600,000 different titles are now covered by the stock. The average number of copies of each card is estimated at 70. When the stock of any card is exhausted, the card is reprinted." (Handbook p. 6.)

"If a library contemplates ordering L. C. printed catalog cards, the point first to be considered is whether the percentage of cards obtainable for the books to be cataloged is likely to be satisfactory. This percentage depends on (1) Whether the books are within the scope of the stock of printed cards, (2) If within the scope of the stock, whether the stock is relatively complete for the classes within which the books fall." (Handbook p. 6.)

The scope of stock on March 1, 1914, as to Law is stated as follows:

"The general treatises relating to American and English law in the Law Library at the Capitol, comprising most of the treatises which are used currently by lawyers, are now entirely covered by printed cards. The collection of older treatises stored at the Library of Congress is in process of recataloging and will probably be completed in 1914. It is probable that the treatises relating to the laws and legal procedure of the several states will next be taken up and following those, the reports of the United States and state courts. It is uncertain when the books on foreign law will be recataloged." (Handbook, p. 7.)

"The Library of Congress has been, since 1871, the legal depository for copyrighted books and has acquired many books copyrighted before that date." (Handbook, p. 10.)

"One form of card only, is printed, viz., the main entry card. Secondary entries for the book are made . . . by adding headings to the main card in typewriting. On most of the cards . . . the secondary entries are indicated." . . . (Handbook, p. 11.)

When such is the case the work of cataloging is much simplified provided the library is using Library of Congress Subject Headings. A knowledge of the principles of cataloging is necessary before one can use L. C. cards to advantage. However the full instructions and illustrations given in the Handbook will go far toward facilitating their use. The "Tentative List of Subject Headings and Cross References for a Subject Catalogue of American and English Law" prepared by the Library of Congress Law Library with the cooperation of the cataloging divisions (150 pages), is free to Law Libraries and will be found to be of much assistance in cataloging a law library.

The L. C. cards make an admirable shelf list. The only addition to be made to the cards is the shelf list mark which may be placed in the upper left hand corner of the card. Or an entire class of cards may be shelf marked merely by the use of a guide card placed with them.

The L. C. cards taken in a certain class, regularly as issued will make an excellent bibliography. The proof sheets which are classed may be subscribed for, clipped and used as a bibliography. An author catalog of texts can be quickly made from the L. C. Cards and at 2 cents per title would surely be worth the price.

Full directions are given in the Handbook for the ordering of cards. There are several methods, but that of designating desired cards by their serial number is advised as being the cheapest and most satisfactory. The card number may be obtained from Depository catalogs, Proof sheets of cards, Traveling card catalogs and certain book trade catalogs and current book lists which are enumerated in the Handbook. (Handbook p. 41, 44.)

Charges for cards ordered by number are 2 cents for the first copy of each card. Each additional copy ordered at the same time with the first card is 8/10 cent. (Handbook p. 50.) No orders are filled for less than 10 cents. All cards are sent by frank to libraries in the United States. (Handbook p. 53.) Payment for cards is made by an advance deposit covering about three months. (Handbook p. 51.) Orders for from 250 to 500 titles are usually filled within 24 hours. (Handbook p. 53.)

"Before the catalog cards are printed, proof sheets are struck off. . . Titles are classed on the proof and each proof sheet containing 5 titles has a heading showing to what class the titles on it belong." (Handbook, p. 64.)

"A library may subscribe to the entire output of proof sheets mailed daily . . . per year $25 (or), proof sheets in any class mailed weekly, per sheet 1 cent." (Handbook, p. 64.)

These sheets cut into 3x5 cards and properly filed, form a good bibliography as suggested above, and as books are acquired by the library, the printed cards may be readily ordered from the proof cards.

The printed cards being made by expert catalogers are correct in every detail and mechanically perfect. The cost of cataloging a law text book by author and subject would average 5 cents a title, which is very reasonable.

Mr. Redstone: The great difficulty in using a Library of Congress card instead of a typewritten one is the variation between books in the Library of Congress for which printed cards are made and books in the individual library. It takes more time to alter a card to fit the book than to type a card at once, and cards with alterations do not look well in the catalog.

A great amount of time and work are involved in ordering cards. Cards to be ordered must be identified with the books, and the necessary number must be determined. A good deal of time is consumed in transportation, and cards are often lost in the mail, which makes a greater delay.

From an economical standpoint it would be cheaper to have the work done in the individual library rather than use the printed cards. If there was a uniform system of classification and all editions of text books had the same imprint, perhaps the Library of Congress cards would be desirable, but as there are so

many editions of text books and a number of reprints of reports and statutes, they are not at all satisfactory.

The ability to use Library of Congress cards correctly and to their fullest extent requires an extended knowledge of the principles of cataloging. The Library of Congress cards, therefore, are of little use to one who has not this knowledge and training.

Mr. Kearney: In the Department of Justice we use the printed cards for all books where possible, and we add the other editions on the main author card. In this way we can get many entries in a small space.

Mr. Hewitt: My opinion is that there should not be the desire to make one card provide for more than one edition. There are apt to be variations in the title page of a work. The author in the course of years sees fit that there should be an enlargement of its scope. He sees that the legislature has cut out some of the sub-topics treated, and he often varies the title page. And new editors come in and sometimes become really the main authors of the new editions. My opinion is that there should be but one author card for the one edition. It should give the title page, the place of publication of course, the edition, the number of pages, etc. The fact that the Library of Congress author card does not provide for all the editions of the work, I think is well. It should not so provide.

Mr. Small: Do you subscribe for the entire output of proof sheets?

Miss Woodard: No, we have a standing order for all proof sheets on the subject of Law. This includes Law of foreign countries.

Miss Smith: I wonder if it would not be a good plan to use the manilla sheets as a source of information, even if one didn't use the cards?

Mr. Cheney: It would. I have been using them in the way Miss Woodard suggests. In using the cards for cataloging current books, one very often finds that he has purchased the book and desires to put it on the shelves immediately, but the Library of Congress cards cannot be had. He then has to make a temporary card, and while making the temporary card, the book might as well be cataloged. Most libraries are a little bit ahead of the purchasing department of the Library of Congress.

Mrs. Klingelsmith: I would like to ask Mr. Redstone to give us a more definite statement as to troubles in ordering.

Mr. Redstone: When we first started cataloging, we simply gave the title page of the book on penciled cards, and sent these in 200 lots to the Library of Congress, and they would supply whatever cards they had for the written slips which we sent. In one or two cases our penciled cards were lost in the mails.

Law Librarians.

What should be their training in business efficiency, knowledge of library science and of law?

Miss E. M. H. Fleming, Fort Wayne, Ind., and
Mr. E. A. Feazel, Cleveland, Ohio.

Miss Fleming: Everybody talks about feminism or efficiency today. No matter what subject may head the talk these two topics are reached somewhere on the course. The fact that our profession eliminated male and female minds

and substituted the human sort many years ago disposes of the first fetich. There remains efficiency.

The small law librarian is a general secretary, messenger and bureau of information. He becomes, of course, more valuable as his years of service mount up, for, contrary to usual belief, I, at least, feel our profession should not be a stepping-stone to the law. The time is here when we must vaunt law librarianship as a permanent profession.

In dealing with any so-called intellectual profession the mind is the first consideration. The law librarian's mind must accept, tabulate, but not worry over minutiae. Place a mind on the job that is painstaking, not smothered by details, not afraid to do the most important task in the face of the many small ones that clamor for attention; a person who will drop accession work at an instant's notice to hunt a needed decision during recess and not be unduly distressed by the process. Because this thing happens so often with me I have come to regard it as necessary.

Keep to the routine generally. It is the only way the librarian accomplishes anything in the long run, but he who knows when and how to digress from the program at the right time is the most efficient person. Efficiency means doing the most helpful work with the least fuss. Be assured that when you work for the procrastinating profession your labor will have to be done in a reasonable time. We are in this honorable profession but not of it and the librarian who usurps the law's prerogative will find the course inadvisable to say the least.

A degree of business training is essential to any law librarian as much for the sense of values it furnishes as for its own sake. Use of the typewriter, bookkeeping of accounts, an attitude towards the wide use of the library as a quick reference source through the agency of the telephone are first essentials. Where the library support consists of a voluntary association of which the executive officer is virtually the financial secretary then the business part of the field is more necessary.

The most important business use adapted to libraries of the law class is the press agent idea. Whether the voluntary association of lawyers makes the library possible or statute requirement furnishes public support, the presence of the advertising idea is valuable. In the voluntary association, going the way of all such organizations, interest and immediate returns must be maintained to keep payments up. Where a direct relation is shown to taxpayers between the cost of reversals (in good measure due to lack of library facilities for bench and bar) and the cost of a good library there is no cry against furnishing a quasi-public profession with its tools. In one Indiana county the bar procured from the county council a small sum to start a law library. The circuit judge, for political purposes, returned the fund to the county treasury with the gentle remark, "Let the lawyers buy their own tools." Yet the maintenance cost of a library is paid out many times over by those people in supreme court reversals and remandings for new trials. Of the large percent of cases which go up from that county fully one-half are reversed. In one of the courts of our county a judge, nearly four years on the bench, has never been reversed. He attributes this largely to the library facilities afforded by our institution. The proportion of cases carried

farther from this same court is so small that the clerks laughed at me when I asked for the exact figures.

When I told the judge of another neighboring county that a librarian would pay as an investment he was astounded. He had thought merely of the old book custodian type as a means of keeping the library door open. I think we have been modest long enough.

In the discussion I hope to hear from the best organizations for the support of law libraries. How can we furnish a non-partisan board of attorneys or laymen with good funds and few politics.

In response to the discussion at the Ottawa meeting of the A. L. A. in 1911, New York, Pratt, Wisconsin, and Illinois stand ready to instruct law librarians. New York is even now considering a summer school for those in present positions. Wisconsin is the only school operating a special librarian's course formally. Thus far it has not enrolled any law librarians, the pupils being legislative reference, and special librarians of other sorts. So far as my letters of inquiry have borne response, I find that the training offered is for those present appointees or very probable appointees. No one has been trained without a particular position in view. This is very fine so far as it goes. It permits of much individuality in courses but its very restriction shows that training is in the embryonic state. The schools offer about the same branches of study. The subjects include technical instruction in cataloging, public documents, reference bibliography of law, bookbinding, order, accession and so on. It remains for outside influence to create the demand for wider training.

I believe if lawyers could be brought to realize library service possibilities the field could be made broader. If the matter were presented to the American Bar Association next October it might bring results. For instance there is the private law librarian. The office building library as well as the firm library would be more efficient with the relatively small investment of a librarian's salary. Library service saves book money and thus shelving space so costly to city libraries. The librarian occupies little space and makes every book in the library more useful.

In a firm a general secretary and librarian saves many loose ends. She indexes briefs, acts as informant on book matters, keeps her people up on the latest decisions just as the small county law librarian does for her constituency. As in the case of all special librarians because her public is of few numbers the law librarian renders effective personal service. In a small community few firms carry all the advance sheets. When a man is writing an important brief on a subject not well settled in law, and in this day of prolific statute making what subject comes not into this category, he enlists the librarian's service. The librarian watches the new decisions, periodicals, and so on as long as that lawyer's interest is alive. The work is the same in a large firm and mechanical enough to be relinquished safely and wisely by the most conscientious practitioner.

Now to the mooted law question. In the past it has been the custom for the law librarian to be a lawyer. The public librarian is not expected to know the contents of his volumes as an expert. That old saw "The librarian who reads is lost," contains much truth as to detailed reading. A good general education

and ability to get the essentials out of volumes on his shelves is considered the equipment necessary. I do not say that law knowledge does not help a law librarian, but I do not rank extensive law knowledge as of the essentials to start with. The fresher viewpoint of the librarian, the different habits of thought, are of themselves more valuable to begin with. The complex is the librarian's field. Questions never reach the reference worker in a simple form. Unlike the lawyer he is dealing with specific parts of a large proposition. The lawyer hears a set of facts, catalogs salient points as involving general propositions of law. The librarian's duty is to advance from this general outline supplied by the lawyer in a few words with little effort, into concrete cases directly applying. As case law continues to increase in volume this service will become more essential.

The law librarian who knows how to use every text, index, digest, public document and table on the shelves, keeps technical processes going and remedies inaccurate citations, that law librarian will find plenty to do without practicing law. The temptation to a mild practice of law is strong with the librarian in a small community. This is because of the money question. I believe it is a mistake. Remember always to be a bibliophile. You lose caste when you practice law, for your constituency, upon whom after all you are dependent, are bound to resent it. Please remember I am speaking of small libraries. Mr. Feazel will tell you of the large variety.

As to the profession and those entering it, personality is always important, the ability to give dignified service ranks near the first requirement. An attitude of gracious helpfulness tends to power. The librarian who brings to the law library profession common sense from business, accuracy from library science and pertinency from the law, may be assured a welcome. With such members our profession constitutes a helpful, honest aid to the judicial system of our country.

Mr. Feazel: Public speakers usually complain of the limitation of time, but I find that my limitation of five minutes in which to criticise Miss Fleming's paper is too much. I am disposed however to disagree with her as to the relative value of library school training and law school training. Possibly I am prejudiced in this, because my training was in a law school. Law librarians are servants of the lawyers and judges, and in order to be of the most service, must be able to look at things from their standpoint; we have to understand the problems they are trying to solve, and no course we can get in any library school would tell us under what subject to look for the solution of a problem which they might bring in. I will simply touch on one subject which Miss Fleming said she wished discussed, viz., how can we get non-political boards of trustees.

In our state we have never had any trouble with politics, with one lamentable exception, viz.: the law library at the state capitol, which is under a different law from the other law libraries of the state. The appointees of the Supreme Court library are appointed directly by the Supreme Court, and unfortunately, politics have proven stronger there than merit. But all of the Association libraries in Ohio are operated under a general statute applying to the whole state, and to be sure that those laws were right and equitable, the librarians of the principal law libraries of the state had a hand in framing them. We believe that the laws are

very fair and equitable, and work for the interests of both the libraries and the taxpayers. The law provides that wherever there is a law library association which furnishes its books to courts and judges and other county officials free of charge, the county shall furnish a suitable room and equip it with sufficient book cases, heat and light it, and pay the librarian's salary, which is fixed by the Common Pleas judges. And to insure no opposition from the rural members in the legislature, a clause was inserted that where only one Judge of the Common Pleas Court holds court in any county, the salary shall not exceed a certain limit; but in any county where more than one Common Pleas Judge sits, there is no limit fixed. We had no trouble in getting that law passed, and it has operated very fairly. I think in most of the counties the county furnishes about one-half the running expenses. I have never known of any political considerations creeping into the operation of any of the law libraries of the state, except the one above mentioned. Where the administration is left to members of the bar, I don't believe there is ever any trouble from political considerations.

Mr. Cheney: Have you a board of trustees?

Mr. Feazel: Yes.

Mr. Cheney: How are they appointed?

Mr. Feazel: By members of the Association. Whenever an association is organized they adopt a constitution and by-laws.

Mr. Cheney: Then this Association is a purely private association?

Mr. Feazel: Yes, a private association getting public support for the service it gives.

Miss Fleming: Can any member of the bar use your library?

Mr. Feazel: No.

Miss Fleming: The plan works out all right in the larger counties, but in the smaller counties the librarian's salary is spent on books.

Mr. Feazel: That is so, and while it is not to be commended, perhaps it is justifiable. In a great many counties there are less than twenty members, and they cannot contribute very much towards a law library. It is primarily for the use of the courts. In those counties where there are only twenty lawyers, and only one court room, it would hardly be the right thing to employ a librarian to devote all his time to the library.

Mr. Mettee: The fee that your members pay is considered as a tax, isn't it?

Mr. Feazel: No, because he is paying for the use of the library. If he were paying taxes, he would pay but a small part of what he is paying as an assessment. We extend privileges to non-resident attorneys and laymen.

Mr. Cheney: In discussing library organization, I might call attention to the library organization in the State of New York, where there are 15 or 16 libraries supported by the state. The state, however, absolutely refuses to pay any part of the salaries.

The state is divided into a number of districts, and some of the large libraries have a librarian and an assistant, who are a charge upon the district, because each district is supposed to use the large library in the large city. But the large library

in the large city does not exclude the smaller library in the smaller city. In the smaller cities the librarian's salary is paid by the county. It is a matter which the Board of Supervisors may fix, and depends in each county upon how they value such services as a librarian may render. The real difficulty is in getting adequate recognition from the State Legislature as to the amount they should appropriate. I think it would be well to supplement any state appropriation for books by authorizing the county boards to supplement the book appropriation as well. By that means I think the librarian in the small locality could get a further allowance for the purchase of books. This arrangement has one happy effect, however, there is no temptation to trim the librarian's salary in order to pay for books. They all recognize the value of the librarian but they don't know where the means are coming from. The first library that was organized on that basis in our state was the Rochester library; next came the Syracuse library, and later the Buffalo library. The Buffalo library being the last, has the ideal statute. If you will look in the Education law in the Consolidated laws of the State of New York for the library of the Eighth District in Buffalo, you will see what I regard as an ideal statute. Each library however is organized under a special statute. There is no general statute covering the entire state.

Miss Fleming: Then your lawyers do nothing?

Mr. Cheney: No, except to create public sentiment.

Mr. Feazel: I think the lawyers ought to contribute something towards the maintenance of law libraries.

Miss Fleming: I should think there would be difficulty in having the average small law library pay.

Mr. Cheney: I think undoubtedly that a state-wide statute for the small library would be an improvement. Now if a sentiment is started in a certain community, the funds must be gotten, and of course they recognize that as soon as this library is established, it means a request for an annual appropriation, and they are very reluctant to grant the demand.

Mr. Hewitt: We have such a system in Pennsylvania, and the largest law library is in Pittsburgh. Any lawyer or any citizen wishing to use books in the library may have access to it under proper regulation. The librarian is appointed by the Common Pleas Judges, and they fix his salary. The law authorizes the county authorities to appropriate a sum for the maintenance of that library, and the sum is not limited. I understand that Pittsburgh has lately been voted by the supervisors or county authorities the sum of $25,000, payable I believe in instalments of $6,000 per annum; this is to bring the library up to a higher state of efficiency. I never have heard of politics influencing the appointment of law librarians in that system. The library must be a free public library. The authorities of my library considered that legislation and decided not to go into it because our Law Association wishes to maintain its control over the policy of the library, and for the further reason that the revenues were to come from one-half the fines and penalties imposed in the county. The lawyers were to pay no dues. There is one advantage in a library such as ours—a citizen is always taken care of as far as the use of books is concerned. He is not, however, given legal advice.

The County Law Library from the Lawyer's Point of View.

Mr. W. H. McClintock, Springfield, Mass.

No argument is needed to show that to the average lawyer the county law library is of well-nigh indispensable value. But it is only in comparatively recent years that intelligent effort has been directed to the task of realizing the utmost possible good from it. The methods which modern librarians have adopted with profit in the handling of general libraries are being applied and adapted to the county law libraries. Progress has been and still is slow along this line but it is none the less sure. The everyday practitioner whose attention has been called to the matter is noting the very apparent and constant advance in efficiency with a feeling of wonder at what is being accomplished and of regret that its beginnings were so long delayed. He has begun to think of the matter himself to the end that his needs may be more and more fully met as the years roll on. Some of his thoughts which may be said, I believe, to express his general idea of what the average county law library should be and how to make it correspond with that idea, are here set down.

To begin with, the housing of the books is, of course, of the utmost importance. Too often do we see the county's volumes of legal lore stored in some inconvenient, badly lighted and generally neglected room in the county court house. This, it should be confessed, is largely due to the indifference of the lawyers themselves, or rather to the lack of leadership or initiative which so often exists amongst members of County Bar Associations. A collection so housed, even if excellent in itself, cannot be nearly as useful as one which is kept in a clean, well furnished, well lighted, and well ventilated room. The lawyer cannot do as good work in the former place as in the latter, nor can his time be used so economically and to such good purpose, and time is a large part of the lawyer's capital.

Given a proper house for our library, the next thing necessary is intelligent care and supervision. In other words, the modern county law library demands a modern law librarian. No proof of this fact is necessary to one who was familiar with the condition of the Hampden County Law Library at Springfield before the beginning of the service of our present librarian. I do not mean to say that the Hampden County library in the old days was not up to the average, for, indeed, I think it was better than the average; but so many improvements have been made upon our librarian's initiative and as a result of her intelligent and zealous efforts that there is no comparison between our present and the past of the old conditions. To her is due in largest measure the commodious, well furnished, well kept and well lighted room where our books now are. It was she who secured from the County Commissioners at the time of the remodelling of our Court House proper consideration for the needs of the library. The arrangement of the library is hers and we find it to be most simple and serviceable. I say these things of our librarian not to praise her, for I am afraid that praise is embarrassing to her, but to emphasize the point that a law library cannot be put into and kept in proper shape without the supervision of a librarian who is at once competent and interested in the work. There are places indeed where the old idea still pre-

vails that law books can take care of themselves and that the employment of a librarian is a mere fad. It is up to the members of the bar in such places to change that idea, and they can do it, for I believe that the county authorities are generally anxious to learn, and, if possible, to follow, the wishes of the county bar association. In concluding my observations on this point let me say that if a librarian can be secured who is a member of the bar, as is the case in our county, so much the better for the library and the lawyers.

The selection of books for the library is a matter of the greatest moment to the lawyer. It is becoming more and more of a problem year by year. Few county law librarians have all the space to which they are, or think they are, entitled. A curtailment of the library in various directions seems to be inevitable. It is, of course, highly desirable that the library should contain the reports of the various states of the United States, and of the British Empire, but it will not be many years, I fear, before such a thing will be impossible. And then the question of selecting those which will be most serviceable will have to be met. Of more present importance to the lawyer however is the matter of the selection of text books. It is to his interest that the selection be careful, for few county law libraries have an available fund which is as large as it should be and each injudicious purchase diminishes the fund for judicious ones. The standard text books on the various divisions of the law will, I believe, answer all the reasonable requirements of the practitioner. Encyclopaedias and compilations of various kinds must, I suppose, be tolerated to a certain extent, but to him who has not infrequently examined the citations contained in many of them only to find that the point for which the authority is cited is either not touched upon or is decided directly contrary to the text, a certain degree of skepticism as to the value of most of them must be permitted.

A point to be borne in mind in the purchase of text books is that the law of our country is in a period of transition at the present time. New ideas and beliefs in matters of political economy and sociology are making themselves felt in the body of our law. A mass of literature is fast accumulating on the various forms of workmen's compensation acts. The regulation of public service corporations and of competition between business enterprises in general is attracting the attention of able writers. The harmonizing of the laws of the different states by means of such enactments as uniform acts covering sales and negotiable instruments, and the coming act covering the law of partnerships will all have their effect upon the county law library. Without giving up the past or neglecting the present, it is well to keep an eye to the problems which the future will present to the trained law librarians. Space will be in demand for these new enactments and the literature concerning them. The conservation of all available space is one of the more important matters which the librarian of the present is called upon to bear in mind.

The arrangement of the volumes in the library is, of course, of great consequence to the lawyer. A general plan of placing the books, as simple as possible, is, of course, desirable. This is the work of the trained librarian and the lawyer would better not meddle with it further than is necessary to acquaint himself with the system employed. A card index of recent decisions of the home state

and of the United States Supreme Court is of great help to the practitioner. The keeping of the law up to date by the use of Shepard's Citations and other similar means in the reports and by the actual insertions of amendments and alterations in the body of the statute law whenever practicable is also a most important source of help and comfort. Here again the value to the librarian of a legal education is apparent.

In conclusion let me say that the members of the bar owe to those in charge of our county law libraries their undivided and hearty support. Their work is of far reaching and constantly growing importance. The assistance which they render to the members of the bar cannot be overestimated. And I think that the matter of the compensation which these co-laborers in the vineyard receive, demands the attention of the bar. For myself I cannot but feel that we receive from them far more than we give in return.

Law Annotations.

The importance of annotations and indexing.

Miss C. H. Smith, Springfield, Mass., and
Miss N. Louise Ruckteshler, Norwich, N. Y.

Miss Smith: The result of thirteen years' experience in a county law library shows the most important feature of the work to be the *indexing of the law*—in common parlance "the keeping of the law up to date," for the reason, that in a county law library one works with lawyers, who, as a rule, are dealing with live issues, with the questions of the day and the hour.

While the historical, legal, moral, and ethical aspects of the law may engross their attention in the leisure of their own libraries (and these elements certainly ought to have a controlling influence in their practice of law), still, nine-tenths of their use of the county law library is in connection with their work in the court room, and what they need to know when conducting a case there, is not what the law ought to be, or even if it is good law, but they must know what the law is at the present moment,—the moment in which they are to use it. When they rush in hot haste from the court room into the library, the why or wherefore of the law concerns them not; only the fact of what is the law is important to them. The one thing necessary is to find out just what the law is.

Realizing this importance of accurate information of the law, and of getting at it quickly, is it not the librarian's chief duty to see that the law of the state is kept up to date, so that when a statute is sent into the court room, it is the correct law at that date? If the said statute has been amended, repealed, or declared unconstitutional, this should be noted on the margin of the book where the statute is found.

Of course this is a great deal of work, but it pays, for it makes the law library a place of useful information, not merely a collection of law books.

Of what does this indexing consist?

First, The latest revision of the statutes and codes of the state should be thoroughly annotated, showing the yearly changes and additions which are made by the Legislature to the laws contained in said revision. Note should be made of any construction of a statute which the court of last resort may have passed on, or

criticised. It might be well to note if the Attorney General has construed it, for failing higher authority, his opinions carry weight.

Second, Note in the state reports if a case has been overruled, or commented upon. In all these annotations use catch words to indicate to what the citation under it refers. For, to the person looking up law, a catch word indicates whether or no he wishes to consult the annotations under it. For example, in Massachusetts Revised Laws, at chapter 42, entitled, "Of the Public Schools" we have the annotation "Continuation Schools," St. 1913, c. 805; "Free Meals," St. 1913, c. 575. Again, at chapter 75, §14, is stamped "Repeal and Substitute," St. 1914, c. 90. Or maybe the name of a recent case which construes a statute is written in on the margin of the laws, viz., at R. L., c. 76, §8, which gives the law regarding Physicians and Surgeons, there is this citation, "Unauthorized Practice of Medicine," Com. v. Jewelle, 199 Mass. 558.

In order to save time, and also to give a neater and clearer appearance to the margins of the book, it is a good plan to use small rubber stamps for the terms generally used, such as: "Repealed by," "Amended by," "Repeal and Substitute," "See," "Additional Material," "New Section," "Time Extended," "Appropriation," and for the year, as "1914."

In addition to these annotations, it might be expedient to make, on thin paper, a typewritten list of annotations to insert into the Revision or Code where a statute has been amended many times and often construed. Sometimes these lists go at the head of a chapter, and sometimes at a particular section of the chapter, for example: at Massachusetts Revised Laws, chapter 140, §3 (which is the law governing the distribution of personal property) can be inserted a thin paper on which the annotations are typewritten. Here are a few illustrating:

REVISED LAWS CHAPTER ONE HUNDRED AND FORTY §3.

Wife as Legal Heir.
Holmes v. Holmes 194 Mass. 558

Legal Title Held in Trust Does not Descend to Wife as a Statutory Heir.
Crandall v. Ahern 200 Mass. 79

Unclaimed Deposits in Savings Bank.
Atty. Gen. v. Provident Inst. for Savings 201 Mass. 23

Right Heir, and Second Wife.
Peabody v. Cook 201 Mass. 218

Land in Mass. Devised by Person Domiciled in Foreign State.
Solis v. Williams 205 Mass. 350

Third, Keep a digest of the latest cases. This is important, for, as said above, the latest law is what is needed, and the reporter systems are about a month behind the date the decisions are handed down.

Of course it is work to read every act of the Legislature, the opinions of the Attorney General, and the four or five hundred cases a year which the Court of last resort hands down, and reduce them to a concise statement of the point of law at issue, but it pays, and why? Because you then have the law at your finger's end when asked to produce it quickly.

Miss Ruckteshler: No one has and no one will overestimate the value of "Indexing" and "Annotating" the statutes and also the decisions of the courts. It is true that the law librarian ought to be able, at a moment's notice, by means

of annotations and indices, to inform the lawyer who rushes in for information, not only as to the latest decision on a given point, and its meaning, but also the latest statute, state and national, on a given subject, and its interpretation. Such a librarian would be worth his or her weight in gold and if employed by the Supreme Court of the United States might enable that august tribunal to keep pace with and understand its own decisions, which many lawyers who visit law libraries claim they are unable to do.

It is stated that the law librarian should be able to read, understand and so annotate the statutes as to show when a statute has been overruled or repealed. But why is a poorly paid law librarian supposed to be able to do this when a $17,000 per annum judge is frequently unable to determine whether or not a given statute has been repealed, and the court five to four divide on the question? Inquire of Congressmen and ex-Presidents, and some of them will tell us that a given statute has been *overruled* by the judges, or, in effect, *repealed* by judicial construction. Will or will not the librarian make himself or herself liable to punishment for contempt of court if an attempt is made to properly and correctly annotate such statutes? I mention this, not to enter complaint against the courts or the judges but to show how laborious and dangerous, perchance, is or is to be the work of the law librarian.

Of course the work of the librarian will be somewhat simplified when the "Recall of Judicial Decisions" goes into full effect. Then we will have no subdivisions, "Affirmed," "Reversed," "Questioned," "Explained," etc., etc., but simply the headings, "Recalled," and "In Process." Then the law library will be visited rarely as the latest law will be found in the "Latest election news," and read in the columns of the morning papers. Then the judges hearing a case will care little what the law *has been* or *is* as written in the decisions, but what does public clamor and consequently my continuance in office, demand that it should be?

The Bar Library from a Bookseller's Point of View.

Mr. E. W. Hildreth, Boston, Mass.

I have been requested by Miss Smith to give you a five minute talk on the above subject. Now Miss Smith is perfectly well aware that while it is customary in this profession to ask for five minutes, no well regulated or sensible man in this business can ever say what he wants to say in five minutes. It is not one of the virtues of the calling; however these few thoughts are gladly submitted by one who has been in the law book business almost thirty years, and during the period has enjoyed intimate and cordial relations as a middle man between law libraries and the publishers.

Emerson once said that "a weed is a plant whose virtues have never been discovered." Thirty years ago this was the attitude of many people toward a purveyor of books but happily all this has passed away, and conditions are now such that librarians depend largely upon booksellers to attend to a considerable part of the detail work connected with running a law library. For instance, a large part of the accessions of a law library are the decisions of the various courts of last resort throughout the country. Your order is placed for continuations and no further attention is given to the matter. Your bookseller keeps watch for

all the various books he may have a standing order for and sees to it that your books arrive promptly, that the binding is uniform with your set and that the price is correct. Your bookseller will have a competent representative visit the library regularly and see that all is going well. He has the authority to correct all mistakes and adjust all questions in dispute. You may have lost books, out of print books, or perhaps with your limited means you are looking for a particular set of books which seems to be desirable in your locality. He will spend months and sometimes years searching for books that will fill requirements, but in the end your wants are generally supplied.

The law librarian in his or her work is in the closest touch with the practical needs of the working lawyer, and generally knows how best to supply these needs, therefore our bookseller who loses track of this fact and sends out representatives who try to sell one library, say in Massachusetts, the same set or a series of books which would be quite acceptable in some other locality, is sometimes criticized by librarians, but as a rule your bookseller has the interest of the library at heart and conducts himself accordingly. The average law book house in issuing its publications depends in large part upon suggestions from librarians. Manuscripts are presented by lawyers who in the intervals of practice or because they have not practice have taken up the publication of a book. Sometimes it is a first and only effort, but quite often it represents most painstaking and conscientious labor. The policy of most booksellers is to publish only such books as their facilities will allow, but a few of the publishers, realizing that suggestions from librarians are valuable, often publish books which in time have a large national sale. Quite often this work is engaged for by going direct to people who have devoted a large part of their lives to the class of the work required.

Be sure of this, that your bookseller depends largely upon the librarian for the real practical hints regarding the use of books, and when a number of librarians have suggested that a book be prepared along a certain line, you may be quite sure that your enterprising bookseller will engage someone to fill this want.

In summing up allow me to say that we are very highly indebted to the law librarians for suggestions that would not come from any other source and on our part we hope to continue the policy of being of as much use as possible to our friends in the profession of librarianship, as we realize that more and more as time goes by Bar Association libraries are being formed, and lawyers are realizing that on account of the wide range of the decisions and authorities, it is becoming quite impossible to own a large private library; therefore, they are commencing to centralize in the use of books.

REPORT OF THE COMMITTEE ON LEGAL BIBLIOGRAPHY.

Messrs. A. J. Small, E. E. Willever and Miss Mary K. Ray.
May 25, 1914.

Read at the First Session. See 7 Law Library Journal 3.

For several years your Committee on Legal Bibliography has offered suggestions and made recommendations as to the making of books, indexing, bibliographies, binding, etc., and while improvements are noted and good work has been done, yet there is still additional work to be accomplished and room for betterment.

However, as we look back over the past year, we are pleased to report progress and indications are hopeful for the future.

Your Committee has not confined its recommendations and suggestions to those which would properly come under a Committee of Bibliography alone; but as no provision was made for a proper committee, we have presumed and taken up questions, which, though somewhat remote, yet, in our opinion, are questions of vital importance to law librarians and the Association as a whole.

"Lest we forget" we would at this time repeat some of the suggestions and recommendations of former years, that they may be a reminder to us of our pledges and resolutions of other days, to the end that we may carry to completion the tasks already begun.

"New Editions" So-Called.

We would again impress upon law book publishers and writers the importance of the adoption of better citations and improved methods of identification, in keeping with the onrush of time and the flood of law books which are being issued each year. A great number of these are but new editions of those already published, and unless they are clearly identified and defined, there is much room and reason for increasing confusion.

For instance, a publisher will entitle an edition as a "New Edition" and so labels it; e. g., "Bishop's New Criminal Law" with no reference to date; "Bigelow, Fraudulent Conveyances, Revised Edition," which investigation shows was published in 1911; "Elliott on Insurance," there being no reference to edition or date on the back label, but on the title page appears "Revised Impression" published in 1907.

Such labeling or lack of labeling on the back of a book is misleading and quite unsatisfactory. Let us insist upon the surname of the author and title of the book on the top label; while the volume, edition, and date, with a letter indicating the contents or a brief title setting out the substance of that particular volume, should appear on the bottom label. In the case of local books, statutes or laws, the name of the state should appear on the back of the volume. All title pages to books should bear an imprint date.

Your Committee is also of the opinion that law books and statutes having succeeding or later editions should cite corresponding sections in brackets, or in a table in the front of the volume if different, for all former or previous editions. It often happens that a reader has a reference to an earlier edition and desires the same in a later issue. These citations would prove especially valuable to the small libraries which do not have all of the earlier editions; and they would likewise prove equally valuable to the large library should a reader wish to consult the same section or paragraph in different editions.

Abbreviations.

With the rapidly increasing number of books, the question of abbreviations is an important one, and this Association should place itself on record as favoring simplicity, brevity and distinctiveness in abbreviations.

We believe the author should select some appropriate citation closely identified with or having some reference to his work, and such abbreviation or citation

should be plainly printed on the title page so that it may be readily seen, and the form of citation to that particular volume or set may be once and for all settled. It is difficult to arbitrarily affix a correct abbreviation to a new work and have it uniform, unless the author or publisher adopts the mode of citation to be followed. The abbreviation of the Dominion Law Reports (D. L. R.) is printed on the title page, and is a method which we contend should be followed in this country.

Supreme Court Rules.

Several of the states print the rules of the Supreme Court in the law reports. We recommend that this Association use its influence in having the rules printed in this form in all the states; and not only should the rules be printed in the volumes, but when a law report contains the Supreme Court rules, the same should be indicated on the back of the volume by a printed label or a suitable stamp.

Citations.

Much confusion is constantly arising through irregularities in the citing of laws or statutes, some using the imprint and others the date or period the volume covers. It would seem to your Committee that the most accurate citation to adopt would be the date or period which the volume purports to cover. It would be well to add the imprint date in case of the volume having been printed in another year. Also, in citing references to text books or laws, it is best to cite both chapter or section as well as the page, the double reference proving a check on the accuracy of the other.

Citations to cases in unofficial publications should be given as well as those cited in the official editions.

All digests of cases and text books citing cases should have a table of cases digested and cases cited, preferably located in the front part of the first volume.

Specific References.

Not a few of our law book writers have fallen into the error of referring to nations or states as having certain laws without making specific references. It would be but little trouble on the part of those writers to be more explicit and make direct citations to such references, which might be enclosed in brackets immediately following the statement, or in a marginal annotation or as a footnote. Occasionally a reader desires the full text of the law referred to, but without specific references, it is oftentimes difficult to find the same.

Indexing.

Much has been written and said in regard to indexing, and while there are evidences of improvement, yet there is room for more.

We urge the necessity for indexing popular titles and would make all citations to subjects direct so far as practicable, thus minimizing the number of "see" and "see also" references.

The most troublesome and well-nigh most exasperating and nerve-racking perplexity we now have is the variance in subject titles. If this Association could but secure the establishment of a system of uniform titles to be used in indexing, its work of years would not have been in vain. Progress cannot help but be made from now on as we establish the uniform subject classification now

being considered by this Association, along with the adoption of uniform laws in the various states. It is in the state laws and statutes that the widest range of titles occurs. We urge the librarians to use their influence in correcting these irregularities, and to cooperate and assist in the standardization of subjects and titles.

Indexing is no longer "the office boy's job." Instead, its importance is being appreciated, and the indexer is or should be a person specially qualified and adapted, either naturally or by training, to that particular kind of work. A book without a carefully and thoroughly prepared index is but a jungle of words and practically useless.

Cumulative indexing and tables of cases are highly desirable and we recommend them in all supplemental laws and law reports issued in advance parts. At the top of the column of figures citing page or section, should be printed "References are to page" or "section," as the case may be.

Circulars.

Several of the law book firms have observed the suggestions and recommendations made by this Association several years ago in regard to the unwieldy and awkward circulars and announcements which were being sent out, and are now issuing them in a more attractive and convenient form. We are still of the opinion that circulars and announcements should be of uniform size and in booklet form.

We would again call attention to the necessity of placing the edition and date of issue on circulars, thereby avoiding possible duplication in ordering and obviating the uncertainty as to whether the volume is really a new edition or simply an edition of several years standing. Circulars should also include the given name of the author as well as the surname, as a means of identifying the writer.

Legislative Reference.

Nearly every law library is more or less a legislative reference library and this feature necessitates the acquiring of all available material and its preparation for reference work.

A great amount of the material necessary is lists of references or bibliographies. We have, as an Association, emphasized the importance of co-operation and we are glad to state that effective work is being done in this respect by librarians.

At the A. L. A. conference last year a scheme was evolved to effect a central bureau, at Indianapolis, with Mr. John A. Lapp, as director. This bureau is proving a success and is doing a splendid service.

Aside from this and cooperating with it, we should agree upon a more systematic and uniform method in the preparation of lists and bibliographies. In this day of quick reference work, there is no time to figure out enigmas or puzzles, or to study the varieties of bibliographies prepared by the different librarians. Some begin the bibliography with the author of the articles; others use the title first, with author following; some prefer the chronological arrangement, while others have no system at all apparently.

It would seem to your Committee that articles under particular subjects should be arranged under three heads: 1st, General; 2d, Affirmative; 3d, Negative; and references to all articles should be by author alphabetically arranged. The volume, page, month and year should also be given in the citation, and it is well to include the pages covered by the article, giving some idea of its length.

The Rawle Manuscript.

The check-list of state bar associations, prepared by Mr. Francis Rawle, of Philadelphia, reference to which has been made in previous years, is still in the hands of Miss Gertrude E. Woodard, secretary of the Association, who is waiting for a proposal to print it. At the suggestion of Mr. Rawle, Miss Woodard has been verifying the work and it is now in excellent condition for publication.

We know of no way to publish this splendid list other than in our Journal, and we are of the opinion that this should be done. It is a valuable contribution; much time has been given to its preparation, and it is unfortunate that it could not have been printed some time ago. We recommend that it be published in the Journal at the earliest practicable date.

Check-List of Legal Periodicals.

Reference was made last year to the desirability of having a check-list or a bibliography of the various legal periodicals, but as yet we have failed to enlist any one to volunteer to prepare such a check-list.

Nick-Names or Popular Titles for Congressional Laws.

Many of the laws upon our statute books are known generally by a nick-name or have a popular title; e. g., Bland-Allison act; Hepburn act; Sherman law, etc.

Your Committee would recommend that a resolution be prepared in the name of the Association and addressed to the proper official or department having the preparation of such laws in charge, urging the importance of the publication of a pamphlet giving references to each of the laws called or known by a popular title. Also, that we ask that the indices to subsequent Statutes-at-large and Revised Statutes include citations to any and all laws passed by the Congress of the United States that may be known by a popular title.

We would also recommend the adoption of a short title for all acts passed either by state legislatures or by Congress.

At the first session, a motion was made and adopted that a committee be appointed, to take up the matter of pagination in cataloging by means of symbols. The president appointed to serve with Mr. Cole on that committee, Miss Woodard and Mr. Thompson of the Library of Congress.

The Auditing Committee presented its report. (This will be found appended to the treasurer's report on p. 3 of the Law Library Journal.)

Moved and seconded that the report be adopted and approved. Carried.

On motion, meeting was adjourned until May 26th at 10 a. m.

THE GENESIS OF AN ACT OF CONGRESS.

By HENRY L. BRYAN, Editor of Laws, Department of State.*

As introductory to the talk I am privileged to have with you about "The Genesis of an Act of Congress," it may not be out of place to sketch an outline of what provisions have been made by Congress for the publication and distribution of the Statutes, ordained by the people of the United States in their Constitution to be, together with that instrument, and the treaties made under the authority of the United States, the "supreme law of the land."

In pursuance with a resolution, adopted by the Continental Congress on September 13, 1788, soon after the Constitution had been ratified by all, but North Carolina, of the States whose delegates had signed it,—

"that the first Wednesday in March next, be the time, and the present seat of Congress the place for commencing proceedings under the said Constitution,"

the first Congress met in the City of New York, March 4, 1789, though through lack of a quorum the organization was not perfected until April 6, 1789.

One of the earliest enactments of Congress was for the custody and preservation of the laws, and the Act of September 15, 1789 (vol. 1, p. 68), establishing the State Department in the place of the Department of Foreign Affairs, provided that all the original laws should be received by the Secretary of State, who was to cause the same to be published in at least three of the public newspapers,—to deliver printed copies to Senators and Representatives,—authenticated copies to the executive authorities of each state; to preserve the originals, and record them in books provided for that purpose. The requirement for recording the laws in books by the Secretary of State was abolished by the Act of July 7, 1838 (vol. 5, p. 302), while the provision for publishing them in the newspapers was extended and modified at various times, but continued until March 4, 1875; the Appropriation Act of June 20, 1874 (vol. 18, p. 91) having ordered that such publication should cease on that day.

By the Joint Resolution of February 18, 1791 (vol. 1, p. 224), Andrew Brown, or any other printer was *permitted,* under the direction of the Secretary of State, to collate with, and correct by, the original rolls, *to* print the laws.

The first specific appropriation for publishing and distributing the laws was made in the general Appropriation Act of February 28, 1793 (vol. 1, p. 327), under the expenses of the Secretary of State; while in the next year there was an appropriation for indexing the laws of the 2d Congress, March 14, 1794 (vol. 1, p. 343). At the end of the 3d Congress, March 3, 1795 (vol. 1, p. 443), the Secretary of State, for the more general promulgation of the laws, was *directed,* "at the end of the next session of Congress, to cause to be printed and collated at the public expense, a complete edition of the laws of the United States, comprising the Constitution of the United States, the public acts then in force and the treaties, together with an index to the same." Five thousand copies were ordered, their distribution specified, and it was also enacted that "the acts passed at each *succeeding* Congress, shall be printed in like manner and preparation." By the

*Read at the ninth annual meeting of the American Association of Law Libraries, held in Washington, May 25-26, 1914.

Act of March 2, 1799 (vol. 1, p. 724), an edition of 5,000 copies was authorized in *addition* to the copies then required to be printed, and distribution directed to the officials of the United States courts and the several states.

Subscription for an edition of 1,000 copies of the laws, treaties, etc., down to and including the 2d Session of the 13th Congress, but excluding all laws relating to the District of Columbia, prepared by Bioren, Duane and Weightman, was authorized by the Act of April 18, 1814 (vol. 3, p. 129), *and* it was also provided that the acts of each succeeding session of Congress should be printed in the same form, etc. By a Resolution of April 3, 1815 (vol. 3, p. 475), the Secretary of State was directed to prepare an index of the laws at the close of *each* session of Congress.

The Secretary of State was authorized by the Act of April 20, 1818, to enter into a contract for the publication at the close of every session of Congress, of 11,000 copies of the laws and treaties, and to make specified distribution thereof, which were to conform to Bioren and Company's revised edition of the laws.

The publication of the laws continued under such authorizations until 1845, when, by the Joint Resolution of March 3, 1845 (vol. 5, p. 798), a contract with Little & Brown for their proposed edition of the Laws and Treaties of the United States was authorized. The requirements of style, contents, etc., were set out at length in the Resolution, and under it there were printed the volumes of the Statutes at Large from 1 to 9 which are the accepted edition thereof.

September 26, 1850, the Secretary of State was directed to contract with Little & Brown for their annual Statutes at Large, printed in conformity with the plan set out in the Resolution of March 3, 1845, instead of the edition issued under the Act of April 20, 1818. This edition was the official publication of the volume of the laws until the contract was terminated by the Act of June 20, 1874, when the printing of the pamphlet copies of the laws of each session and the Statutes at Large of each Congress was ordered to be done at the Government Printing Office, and the editing, printing, publication and distributing was placed under the direction of the Secretary of State.

The foregoing is a brief recital of the legislative provisions for the publication of the laws up to the time when Congress caused the entire work of printing to be executed at the Government Printing Office. In the early days of the Republic under the Constitution there were a number of parties who undertook the printing of the laws, among them Andrew Brown of Philadelphia, whose first edition was certified to by Secretary of State Thomas Jefferson, Francis Childs, Richard Folwell, and Bioren and Duane, of Philadelphia, and Adams and Lincoln of Boston. The editions of Bioren and Duane were continued from the 14th Congress by Davis and Force of Washington. Upon the removal of the seat of Government to Washington, an edition of the laws was printed by Samuel Harrison Smith, continued by R. C. Weightman, who was followed by Gales and Seaton, the publishers of the National Intelligencer. Folio editions of the session acts were printed for a short time by Francis Childs and John Swain of Philadelphia, Augustus Davis of Richmond, Va., and Hudson and Goodwin of Hartford, Conn., stray copies of which are in the Library of Congress, where is also a quarto copy of the Acts of the First Session of the First Congress, printed by

Hodge, Allen and Campbell of New York, as an appendix to their volume of Debates, which was the personal property of George Washington and bears his autograph.

Just a few words about the Revised Statutes. There being no official codification or digest of the laws in force, the necessity for which was apparent, Congress by the Act of June 27, 1866 (vol. 14, p. 74), provided for three commissioners who were authorized to revise and consolidate all the public laws which should be in force at the time of their report. Under this authority the President appointed Caleb Cushing, Chas. P. James and William Johnston, to whom commissions were issued July 27, 1866. Caleb Cushing retiring from the Commission, Simeon M. Johnson was appointed in his stead. The task proving such a heavy one, the original commissioners were unable to complete it and by the Act of May 4, 1870 (vol. 16, p. 96), the former act was revived and it was provided that the commissioners should complete their work not later than three years from the date of the act. The commissioners appointed under this act were Chas. P. James, Benj. Vaughan Abbot and Victor C. Barringer. The draft prepared by the commissioners was accepted by Congress, March 3, 1873 (vol. 17, p. 579), and their report was referred to a special committee composed of three members of the committees of Revision of the Laws of the Senate and House respectively. On December 10, 1873 (Congressional Globe, 1st Session, 43d Congress, p. 127), the work of the commissioners as made up into a bill, was reported to the House by the committee on the Revision of the Laws, and the Act of Congress embracing the Revised Statutes of the United States became a law by the signature of President Grant, June 22, 1874.

After the publication of the Revised Statutes, which volume was intended to include the laws in force up to December, 1873 (the second edition of which, in 1878, being merely a reprint with corrections of typographical and other errors noted, together with subsequent legislation specifically affecting the text), the need soon became apparent for a volume containing the laws of a permanent nature, eliminating annual appropriations, legislation of a private or merely local character, and matters essentially transitory. And by the Joint Resolution of June 7, 1880 (vol. 21, p. 308), the Supplement to the Revised Statutes, primarily prepared by William A. Richardson, Chief Justice of the Court of Claims for his personal use, was ordered to be printed, and the publication made prima facie evidence of the laws it contained in all the courts of the country. As Judge Richardson had made the Index of the Revised Statutes, Edition of 1878, he was therefore eminently qualified to perform this work.

Volume 1 of the Supplement was printed in 1881, and contained the laws of the 43d to 46th Congresses. A second edition was authorized by Joint Resolution of April 9, 1890 (vol. 26, p. 50), and the editor was directed to embrace in it the legislation of the 47th to the 51st Congresses also, with a general index to the whole. By the Act of February 27, 1893 (vol. 27, p. 477), the editor, who had secured the assistance of Geo. A., and Wm. B. King, was authorized to continue the Supplement for *each* session of Congress, but this merely lasted through the 54th Congress, when by a provision in the Sundry Civil Act of June 4, 1897 (vol. 30, p. 30), it was limited to one volume for a complete Congress.

Under these various authorizations there was printed Volume 2 of the Supplement, containing the general legislation enacted from January, 1892 to March 3, 1901, inclusive, and embraced in Volumes 27 to 30, of the Statutes at Large. The commission to revise and codify the criminal laws of the United States, created by a paragraph in the Sundry Civil Act of 1897 (vol. 30, p. 58), having been directed by the Act of March 3, 1901 (vol. 31, p. 1181), to revise and codify *all* laws of the United States of a permanent and general nature in force at the time when the same should be reported,—no further provision was made for continuing the Supplement, and consequently the only method of determining from *official sources,* the present state of statutory provisions since 1901, is to look through the six volumes of the Statutes at Large issued after volume 31. I may add that the final report of the Commission was submitted December 15, 1906, but up to the present time only two of the titles for the New Revised Statutes, the Criminal Code and the first part of the Judicial Code, have become incorporated into the Statutes.

What I have said may seem a somewhat lengthy introduction to the "Genesis of an Act of Congress," but my infant is such a small and insignificant little body that a description of the various garbs in which he appears before the public eye occupies a greater space than the recital of the periods of development from the protoplastic entry into legislative generation up to the time when the signature of the President makes it a living member of the family of laws of our Government.

The first step necessary is the introduction into Congress of the subject for which legislation is sought, by means of a *bill,* and this may have been prepared by the member of Congress himself, or at the instance of the party interested, or by authority of one of the committees whose duty it is to consider matters of such a nature. In the Senate a bill is first read by its title, then, if no one objects, it is considered as read the second time and referred to the appropriate committee. In the House of Representatives, in order to economize time, the drafts of bills are placed in a basket at the Speaker's table, and referred without the formality of reading. After the record is made by the bill clerk assigning the number by which it is carried through Congress, the original draft is sent to the Government Printing Office and upon the printed copies being received in the office of the Secretary of the Senate or Clerk of the House, one is sent to the Committee to which it has been referred, by a messenger to whom a receipt is given by the clerk of the committee.

Let us take a House bill and follow it through its usual course. At a meeting of the Committee charged with the consideration of the bill, it is referred to one or more of the members for consideration, who, after having prepared a statement, give grounds for the action by the Committee at a regular session. If this be favorable a report is prepared and the chairman or member who had the subject in charge is directed to return the bill to the House endorsed with a favorable recommendation or suggested amendments. The bill on being received at the Speaker's table is assigned to the proper calendar with a number of its position given to it, and then sent to the Public Printer, who returns it to the Clerk to be kept by him until it comes up for consideration, and at the same time prints the prescribed number of copies which are delivered to the document and folding

rooms. When the bill is reached on the calendar and acted upon, the enrolling clerk prepares and has printed what is known as the *engrossed* copy, and this is thereafter the original bill which passes between the two Houses, being endorsed "Passed the House of Representatives," the date given, and attested by the Clerk.

One of the officers of the House then carries this engrossed bill to the Senate and makes the formal announcement of its passage and that the House requests the concurrence of the Senate. The bill is then taken to the desk of the Vice President, who subsequently places it before the Senate; it is then read twice by its title, if no one objects, and referred to the appropriate committee. The enrolling clerk of the Senate keeps the original but furnishes a copy to the Public Printer, and the same procedure is observed in referring to the committee and its action thereon as obtained in the House. The bill returned from the Committee is the printed one that its clerk received and upon which its action is endorsed. From this the enrolling clerk prepares the copy to print the regular number, returning the bill received from the Committee to the proper officer of the Senate who keeps it in its order on the calendar. When the Senate has acted upon the measure if there has been no amendment, it is endorsed by the enrolling clerk "Passed the Senate," the date given, and attested by the Secretary, but should it have been amended the endorsement reads, "Passed the Senate with amendments," and the enrolling clerk prepares a certificate for the Secretary's signature, specifying the amendments and indicating the exact place where they occur, which certificate is attached to the engrossed bill that came from the House.

The Secretary of the Senate, or one of the clerks of his office, takes the bill with proposed amendments to the House, and upon being recognized by the Speaker, announces that the Senate has passed the designated bill with amendments in which the concurrence of the House is asked. It is then carried to the Speaker's table where it remains until called up for consideration either in regular order or upon motion. Should the House be willing to accept the action of the Senate a motion to concur would be passed, or some of the amendments might be accepted and others not concurred in, or the bill be referred to the committee from which it originally came for recommendation, or the House might vote to refuse to accept the amendments. Unless the first course was adopted a message would be sent to the Senate notifying it of the action taken and requesting a conference on the matters in dispute, and naming the conferees selected. Upon the acceptance of this request and appointment of the managers by the Senate the bill is delivered to the conferees, and when an agreement is attained, it is presented to the Senate and upon its favorable action, is taken to the House which is informed by a message of the agreement thereto. When the House has voted to accept the conference report, the bill as amended is then enrolled on parchment, endorsed by the clerk attesting that the Act originated in the House, and after examination by the Committee on Enrolled Bills with the engrossed bill, the chairman presents it in the House to the Speaker, stating that it had been found correct, whereupon the Speaker signs it, announcing the fact. After the President of the Senate has received the parchment in open session and signed it, it is returned to the Committee on Enrolled Bills of the House, whose chairman takes it in person to the President where it remains until his signature makes it a law.

Up to the regular session of the 53d Congress the engrossing and enrolling was done by pen, but after that, Congress, by a concurrent resolution, November 1, 1893, directed that printing should take the place of handwriting, and arrangements have been made by the competent enrolling clerks and the officials at the Government Printing Office by which a most commendable degree of correctness and celerity has been attained in this exacting, responsible work.

By the signature of the President this imprinted parchment at once becomes imbued with a new existence as a part of the laws of the land, and for its promulgation and safe keeping is taken to the Department of State where it is filed away with all its predecessors commencing with Act No. 1 of the 1st Congress of the United States, signed June 1, 1789, by George Washington. Immediately upon the receipt of the law at the State Department, a copy is sent to the Government Printing Office, a proof of which is quickly returned, carefully compared with the original parchment, and when found to be correct the order is given to print the slip law for distribution. To facilitate the prompt printing of the slip laws, additional impressions *on paper* are taken from the same type forms which are used to print the enrolled parchment, and sent to the Librarian of the Department of State simultaneously with the delivery of the parchment to the Committee on Enrolled Bills, and is used to prepare the copy for the printer.

This may properly be the end of my story, "The Genesis of an Act of Congress." The 1st Congress in its three sessions enacted 102 laws, while the 59th passed 6,940 laws, 698 being public. The only advance method of distribution of the acts of Congress is through the slip laws sent to designated parties. It is not until the Congress adjourns that the laws are printed. Within two weeks after Congress has ended its session, every bit of the work is ready for printing.

BILL DRAFTING.

By MIDDLETON BEAMAN, of the Legislative Drafting Department of Columbia University.*

There is no need at this time to prove that our statutes should be better drafted. Many people think that we legislate on too many subjects and too much on each subject, but most of you will agree that what we suffer from chiefly is not too many statutes, but too many badly constructed statutes. Many earnest efforts are now being made throughout the country to improve the form and content of our statute law. Along what lines should these efforts proceed? Just what is wrong with our statutes?

In the first place, many of them are awkward, verbose, and even ungrammatical. A recent Act creates a Commission to administer it, consisting of five commissioners "one of whom shall be designated by the Governor as Chairman, not more than three of which shall belong to the same political party." I have heard politicians called some hard names, but I never before heard one called a "which." The same Act authorizes the Commission to employ various classes of assistants, including "medical doctors." One hardly knows whether this is merely an awkward expression or a deep plot to prevent the Commission from being overrun with doctors of philosophy. Sometimes the language is so obscure as to be absolutely meaningless, as in the case of a recent act which provides that in case a workman is injured his compensation shall be 50 per cent of the average weekly wages "not to exceed $12 a week and not less than $5 a week at the time of the injury in which event he shall receive compensation in an amount equal to his average weekly wages." Sometimes the act merely suffers from lack of adequate punctuation, as in the case of the act which provides that compensation "shall be paid by the Board to the said infant or to his guardian or representative if the infant is killed in instalments." Again, it may be so involved as to be difficult to understand, as in the case of the following section,—"The Commission shall disburse the Workmen's Compensation Fund to such employees within the meaning of this Act of employers as have paid into such fund the premiums for the period in which the injury occurs, applicable to the class to which they belong that shall have received injuries in this State in the course of and resulting from their employment, or to the dependents, if any of such employees, in case of his death, according to the provisions hereinafter made." This section would probably present no difficulty to the court as a matter of construction, but you all will admit that it could have been expressed more clearly.

Sometimes the language is perfectly clear, but it does not say what it meant to say, as in the case of a draft of a bill recommended by a Commission in Pennsylvania which provided for the payment of compensation to widows of killed employees and defined "widow" to include "only *those* who are living with the decedent at the time of his death." It was suggested to the Commission that a Pennsylvania workman is not apt to have more than one widow, and the Commission, feeling that this criticism was just, changed the language in their next draft so that the term "widow" should include "only *a* widow living with the decedent

* Read at the ninth annual meeting of the American Association of Law Libraries, held in Washington, May 25-26, 1914.

at the time of his death." This is, perhaps, better than the first attempt, but is still not very complimentary to the standards of morality among Pennsylvania workmen. Of course, what was meant was that the term "widow" should include only the decedent's *wife* living with him at the time of his death.

Many of you will be surprised to learn that the Massachusetts Workmen's Compensation Act has been repealed. The law was originally passed in 1911 and last year an act was passed to extend its provisions to the employees of counties and cities. Section 7 of this last act provides: "The provision of Chapter 751 of the acts of the year 1911 (this was the original compensation act) shall not apply to any persons other than laborers, workmen and mechanics employed by counties or cities." This, when read literally, absolutely wipes out the act of 1911 though, of course, it is not so intended. Probably the court would do what it so often is obliged to do,—construe the act to mean something that it has not said.

Many statutes contain provisions inconsistent with other provisions found in the same act or in other acts. A recent instance of this is the New York Workmen's Compensation Act which defined "employer" so as not to include the state and its political subdivisions, and also defined "employment" so that no person is entitled to compensation unless employed in a business carried on by the employer for "pecuniary gain." An amendment was subsequently enacted which amended the definition of "employer" so as to include the State and the cities, but no change was made in the definition of "employment." Inasmuch as it cannot be said that a state or a city is engaged in business for pecuniary gain it is extremely doubtful whether the Act applies to them, although it was obviously the intention of the Legislature to make it so applicable. The Ohio Workmen's Compensation Act allows the liability for compensation to be insured, among other methods, in mutual associations of employers, but neither the compensation act nor any other act in Ohio authorizes the formation of mutual associations to insure the compensation liability, so that the privilege apparently granted by the compensation act is entirely ineffective.

A failure to observe the provisions of the Constitution of the State and of the United States frequently results in well-meant efforts for the public welfare being declared unconstitutional, though many people put the blame for this upon the courts rather than upon the persons responsible for the preparation of the legislation.

The most serious charge, however, that can be brought against our statutes is that they are frequently mistaken in the policies which they embody and that they, in almost all cases, fail to provide for all the contingencies within the scope of their subject matter. Mr. C. C. Bonney expressed this well thirty years ago, when he said to the American Bar Association:

"Statute-making is not only strictly professional work, it is the very highest order of such work. The text book of Story on Equity Pleadings tells us that the drawing of a well constructed bill in equity requires great accomplishments, and the endowments which belong only to highly gifted minds, and yet that is a summer-day pastime compared with the difficult task of framing a wise and well constructed bill for enactment into a law by the legislature. Because the bill in equity deals only with the facts which exist, while the statute maker must look

into the future, and endeavor to perceive the various contingencies and difficulties which may arise."

A very good example of the failure to exercise proper foresight is to be found in a recent Compensation Act which provides for compensation, in case of the death of an employee, to certain classes of dependents, the amount payable being based upon the extent of the dependency. After enumerating the various classes of dependents, the act goes on to provide that "should any employee leave surviving him no such dependent, the amount that would be due and payable to his dependents, had any survived him, shall be paid" into a certain fund. It is difficult to see how this provision can be applied by the court, for if a man dies without leaving dependents, it would require a good deal of learning to enable the court to say what dependents he would have left if he had left any.

These being the chief faults of our statutes, how are they to be remedied? The answer is usually made,—"by better bill drafting." What do we mean when we speak of bill drafting? Do we mean simply expressing in well-chosen language the policies already determined upon, either by the drafter or by others, or do we mean something more? It is believed that no real improvement in the quality of our statutes can be hoped for until our legislators and others responsible for the preparation and passage of bills realize that all the processes involved in converting a meritorious idea into an effective statute are equally important and that in each process experts must be employed. What are these processes?

Starting out with the assumption that someone has made sufficient study of conditions in the community to discover that something is wrong and needs a remedy, it seems obvious that the first step in the processes of drafting a bill is a careful study of the existing law in the jurisdiction in which the bill is to operate —and by a careful study, I mean something more than a general appreciation of what the statutes contain and what they were intended to do. A study which will form a solid basis on which to build necessitates an examination of the statutes in the light of court decisions and administrative rulings interpreting them. Right here the persons standing back of legislative projects often go wrong. They realize the need of making such a study and they have it made, but they don't employ a lawyer to make it. The result too often is that the existing law is not properly appreciated and the bill when finally drafted fails to do all that it is intended to do.

At the same time as this legal study, there should be made a study of economic conditions in the jurisdiction. This should include not only an investigation into the facts as they are—for example, are factory employees working under bad sanitary conditions—but also whether the state of affairs discovered to exist results from the existing law, from the absence of law, or from the non-enforcement or defective enforcement of existing law. It is apparent that such a study must be made in connection with the legal study and the closest cooperation must exist between the investigators in each of these fields, otherwise the results of one study will not be responsive to the needs of the other.

As soon as an exact knowledge has thus been obtained of the existing law and facts the next step is to discover what remedy is needed. This remedy is not always more legislation. Sometimes it is the election of honest and efficient

public officials; sometimes it is the education of public opinion; and sometimes, as many of our more enthusiastic and strenuous reformers would have us believe, it is the lynching of a few judges. But for our purposes we may assume that a new statute is deemed necessary, and we are now confronted with the problem—what shall the statute contain?

In determining this question we naturally turn at once to the experience of other jurisdictions, and we must have a similar study of the law of those jurisdictions and also, unless we are to fall into the not uncommon error of *adopting* these laws instead of *adapting* them, a study of the economic conditions in those jurisdictions, at least thorough enough to discover the points of resemblance to or difference from our conditions.

Having thus collected all our data the next step is to make use of it in the preparation of a complete and detailed analysis of all the possible alternatives of policy, not forgetting, as has been well observed, to "include brains among the raw materials used." These alternatives, together with full annotations pointing out their comparative advantages and disadvantages should now be laid before the persons responsible for the policies which the proposed bill is to contain, whether a legislative committee, a private organization, or an individual, and a decision reached as to every point. It is the failure to make such an analysis or the failure to make it complete enough that causes so many laudable efforts to improve conditions by legislation to fall flat or fail in large measure to accomplish their object. Certainly our statutes are full of all kinds of ridiculous and glaring errors, obscurities, redundancies and inconsistencies, but the worst thing about them is their resemblance to Swiss cheese,—they are full of holes. By this I refer not only to loop-holes, by means of which the law can be evaded, but to places where there is an entire absence of policy, so that no man can say what the legislature intended to happen under certain circumstances, or at least he cannot say that the intention is expressed in the bill. It is just such defects in our statutes which form the real reason for many of the decisions of our courts which give so much offense to a large element of the community and lead to agitations for the recall of judges or at least of judicial decisions.

It is in this respect that many of the legislative reference bureaus which furnish material to go into a bill fall short. They digest the material which they collect under headings limited by the scope of the material itself and fail to analyse the problems from the standpoint of a comprehensive and expert knowledge of the whole subject, and by means of an intensive study of it. This is not the fault of the bureaus. It is the necessary consequence of their small appropriations and of the frequency and urgency of the demands made upon them.

Particularly is there need for analysis on the side of the administrative devices to make the law effective. A wide field is here open for intensive study, not only as to each bill as it comes up, but also to discover general principles that may be applied in particular instances. In a recent Wisconsin case it was said: "A law, however much needed for the promotion of the public welfare, and however wisely framed, may be made so unsatisfactory by the spirit of it not sufficiently pervading its administration, as to largely defeat its purpose and create danger of its abrogation and a return to the distressing situations which gave

rise to the effort for relief." It is true that any statute can be rendered ineffective by dishonest or careless administration, but it is equally true that a statute which works out the administrative features in a careful and comprehensive way stands a much better chance of being properly enforced than one which lays down a rule of substantive law and stops short. Of course I do not mean that a statute should leave nothing to administrative discretion, for it may well be that the most effective administrative device is to create an administrative board to make rules and regulations; but what I wish to make clear is that the administrative machinery, whatever it may be, whether court procedure, penalty provisions, or what not, must be carefully worked out.

The scope of the bill being decided on, the next question is—is the remedy proposed in accordance with the Constitution? There is today much criticism of the courts on the ground that they block and render ineffective legislation when passed, and an increasing amount of criticism of lawyers for throwing cold water on projects of legislation. As to this, it may be said that under our form of government it is the duty of the courts to refuse to enforce statutes which are not in accordance with the Constitution, and, furthermore, that in many instances the courts are reaching the right decision—although sometimes what Dean Lewis calls the "essay that goes with the decision" leaves much to be desired. For example, the famous Ives case, which declared the New York Workmen's Compensation Act of 1910 to be unconstitutional, contains many expressions of opinion which must be regretted by those who hope to see our law submit to a process of evolution rather than of revolution; but it is nevertheless true that the act passed upon in that case was a bad act and highly unjust, in that it gave to the employee, after the injury, the option of proceeding for compensation or suing at law for such damages as a jury might give him; whereas the employer had no option at all. It is true that lawyers have been, and probably always will be, a conservative class, and it is perhaps not altogether a bad thing to have with us such a class in these days when every man who sees an evil comes forward with a bill to remedy it. Some people object to the lawyer because he points out that proposed bills are likely to be declared unconstitutional; would they have him remain silent? It is surely better to have him speak out, so that if possible the bill may be corrected and the constitutional difficulty removed. The real ground for complaint against many of our lawyers is that their criticism is destructive and not constructive. There is undoubtedly need in this country for the lawyer who has a constructive imagination and is willing to apply it to the betterment of projects of social reform. What the reformers really need, though they do not always realize it, is the lawyer who, while alert to steer the bill away from a declaration of unconstitutionality, has a live appreciation of the object of the bill and points out how this object can be attained. Curiously enough this is just the type of legal mind which, when applied to large corporate interests, subjects its possessor to the bitter attacks of these same reformers.

The last of the processes included in the drafting of a project of legislation is the translation of the policies determined upon into the technical form of a bill. It has been said that this process is largely a question of using good English. Certain it is that training in English composition is a valuable help to the drafter.

Dr. G. Stanley Hall once said that we "need to talk with a rifle rather than with a shot gun or water hose." Many of our statutes read as if their drafter were accustomed to talking with an atomizer. We are also told that simple language should be used, so that the layman can understand the bill; but it is unfortunately true that many of our modern statutes, dealing as they do with intricate and complex social phenomena and attempting to fit these phenomena into existing law, itself intricate and complex, require for their understanding a knowledge which the ordinary layman cannot have. After all, the main purpose is so to phrase the bill that when it comes before the court it will be interpreted just as it was intended by the drafter it should be interpreted. If this object be attained it is a well drafted bill. This means that a lawyer must draft it, for no one else is familiar with the interpretation put upon similar language by the courts. As said by Mr. Johnson T. Platt to the American Bar Association in 1886:

"The draftsman must know the rules of the common and statute law applicable to the subject matter of the proposed bill, be able to bring before his mental vision the various combinations of fact likely to occur and calling for the application of the proposed rule, have a competent knowledge of the use of words and a thorough understanding of the whole matter of judicial interpretation."

It is sometimes objected that because our statutes nowadays deal mostly with subjects of political science, sociology, economics, etc., of which the lawyer may know nothing, he should not draft the bill, but should only criticise it after it is drafted. If by this statement it is meant that he alone should not determine upon the policies to be embodied in such a statute, the statement is largely true; but when it comes to choosing words to convey an idea and so to convey it that it cannot be misunderstood, it seems evident that no one can do this so efficiently as a member of that profession whose business it is to tear the bill to pieces after it is enacted. Especially is this true in these days of distrust of the courts; surely no one so well as a lawyer can know how to tie their hands.

I have heard it argued that the average lawyer knows no more than the layman of the highway law, for example, and that therefore he has no particular qualifications for drafting a bill dealing with that subject. It is perhaps equally true that the average economist or political scientist has no particular knowledge of this highway law. Furthermore, those who insist that the economist must draft the bill admit that it should be submitted to the lawyer for his criticism, and it may be inquired—how can the lawyer criticise it effectively unless he has a knowledge of the highway law? And right here we should bear in mind that this knowledge cannot be presented to him in pre-digested form. Tabloids of information may be sufficient to enable the legislator to determine on broad questions of policy, but they are not strong enough meat for the man who must know what he is doing when he changes a few words here or inserts a sentence there. If the lawyer has knowledge enough to criticise the bill intelligently he might as well have drafted it in the first place. The fact of the matter is that whoever is to draft the bill must know that highway law from the ground up, not only as *highways* but as *law*, and the lawyer is the only man who can get this comprehensive knowledge within a reasonable space of time.

In the last analysis, whoever is to perform this final process in the drafting

must have one qualification. He must realize what, in the language of the street he is up against, must exercise the most painstaking care, and must devote as much time to the work as is possible. The not unusual practice of some of our commissions, appointed to draft bills, of spending six months working out policies and a day and a half in actually drafting their bill, inevitably results in a poor bill, however wise and sound the policies decided upon. You are all familiar with the story of the little boy who was asked what he would wish for if he had three wishes, and who said, first, all the candy he could eat; second, never to have to go to school; and third, after a long period of reflection, some more candy. Very similar should be the three wishes of the person called upon to express in effective form policies which have been determined upon; first, that he may exercise great care; second, that he may have plenty of time; and third, that he may be still more careful.

Mr. Hewitt: It occurs to me, in listening to the earnest and able address by Prof. Beaman, that a word additional is wise, in order to satisfy any one who may feel doubt respecting the ultimate effect upon representative institutions, should drafting by official experts become general. The institutions of this country are representative, and were they incroached upon in this respect, a serious blow would be struck at our most cherished right, that of the people to rule. The leader in recent years in the movement for the appointment of officials who will frame legislation under direction of members of the legislative assembly, Sir Courtenay Ilbert, has had wide experience under this system, and his comment is, "Government *by* experts is one thing, government *with the aid* of experts is another." This shows the correct appreciation of the position of the draftsman. He frames, on request, and does not introduce his personal views. His work is submitted to the member or to the legislative committee interested, and they adopt it or not in their discretion. In case they adopt it, it must pass the scrutiny of the House and Senate. It will be remembered that the legislature has full control. In case of abuse, the legislature can end the system by a refusal to appropriate the funds necessary for the continuance of the system. The system has been in vogue in Pennsylvania since 1909, and during the years intervening since then, the Pennsylvania legislature has enacted most important laws, throwing responsibility for nominations, elections, etc., etc., more directly upon the people than ever before in the history of the country. There seems, then, no fear at all that the system advocated by Prof. Beaman will trench upon the proper field of the legislator. It may well be asked, how many members of the legislature in the old days actually took a hand in framing the laws upon which they voted? Probably the proportion was very small. It is apparent from this that the loss to them under the new system is almost *nil*. This thought is further impressed on one by the fact that even in the past, judges, lawyers, and commissioners have frequently drawn bills voted on and adopted by the legislatures, and we have constantly with us most able bodies of men—Commissioners on Uniform State Laws—who submit from time to time proposed legislation on various subjects. In the language of an able expert draftsman in Pennsylvania, "All the expert does in modern practice in the United States is to take the idea given him by the representative and

mold it into proper shape." Should the proposed system enervate the legislator and render him less attentive to his duty, and less representative of his constituents, it would be unfortunate that it were adopted; but the safeguards against any such retrogression seem ample. Let us support cordially then the patriotic efforts of those who advocate the system urged by Prof. Beaman. We must all feel grateful to him for the trouble and time which he has given on our behalf. Certainly the subject could not have been presented in a more convincing manner. He has reasoned it out in a way that must carry conviction, and we cannot thank him too much.

Mr. Brigham: The particular point is that we are not dealing with bill-drafting people. Those men are not as a rule trained men, and they introduce bills for three reasons: first, to please their constituents; 2nd, to get notoriety, and 3rd, because they have been instructed to introduce the bill for political reasons. These bills come into the House in crude form, and you have to fall back on certain forms that you may use, but invariably the problem goes back to good English. The difficulty lies in the haste with which legislation is carried on, whether in Congress or in the several states. There is not due consideration given the bill from the point of view of form in any of the states. When a bill is introduced there should be a period of rest before the bill is enacted. This will give time for redrafting. A document of this kind should have all the consideration possible.

INDEX TO LEGAL PERIODICALS AND LAW LIBRARY JOURNAL.

Statement of Ownership, Management, etc., of INDEX TO LEGAL PERIODICALS AND LAW LIBRARY JOURNAL, published quarterly at White Plains, N. Y., required by Act of August 24, 1912.

Editor: FREDERICK W. SCHENK, 941 E. 53d St., Chicago, Ill.
Business Manager: H. W. WILSON, White Plains, N. Y.
Publishers: THE H. W. WILSON COMPANY, White Plains, N. Y.
Owners: American Association of Law Libraries, Boston, Mass.
E. J. Lien, President, State Library, St. Paul, Minn.
Edw. H. Redstone, Treas., Soc. Law Lib., Boston, Mass.
C. Will Shaffer, 1st V.-P., State Law Lib., Olympia, Wash.
Mrs. M. B. Cobb, 2d V.-P., State Library, Atlanta, Ga.
Miss G. E. Woodard, Sec., Law Lib., U. of Mich., Ann Arbor.

Known bondholders, mortgagees and other security holders holding 1 per cent or more of total bonds, mortgages, or other securities: None.

(Signed) J. B. DOSTER, Sec'y,
THE H. W. WILSON COMPANY.

Sworn to and subscribed before me this 11th day of November, 1914.

A. G. CUNNIFF, Notary Public,
Westchester County.
(My commission expires March 30, 1916.)

November, 1914.